

THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

MARK MALLOY,	§	
	§	
v.	§	Civil Action No. 4:23-cv-333-SDJ-KPJ
	§	
THE MUNICIPALITY OF THE	§	
CITY OF COMMERCE, TEXAS ET	§	
AL	§	


**MEMORANDUM ADOPTING REPORT AND  
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On July 14, 2023, the Magistrate Judge entered proposed findings of fact and a recommendation (the “Report”), (Dkt. #17), that Defendants Mayor Teddy Reel, City Council Member Jim Ayres, City Council Member Beckey Thompson, City Council Member Stephanie Mueller, Mayor Pro Tem Anthony Henry, City Manager Howdy Lisenbee, Code Enforcement Officer Grant Cowell, and the Municipality of the City of Commerce, Texas’s (together, “Defendants”) Motion to Dismiss and Brief in Support (the “Motion to Dismiss”), (Dkt. #13), be granted. The Magistrate Judge recommended Plaintiff Mark Malloy’s (“Plaintiff”) Takings Clause claim against Defendants be dismissed with prejudice. The Magistrate Judge further recommended that to the extent Plaintiff is asserting any state law claims, the state law claims be dismissed without prejudice.

Having received the Report of the United States Magistrate Judge, and no timely objections being filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's Report as the findings and conclusions of the Court.

Accordingly, the Motion to Dismiss, (Dkt. #13), is **GRANTED**. Plaintiff's Takings Clause claim against Defendants is **DISMISSED WITH PREJUDICE**. To the extent Plaintiff is asserting any state law claims, the state law claims are **DISMISSED WITHOUT PREJUDICE**.

**So ORDERED and SIGNED this 8th day of March, 2024.**

  
SEAN D. JORDAN  
UNITED STATES DISTRICT JUDGE